



Maxwell Museum of Anthropology • University of New Mexico

January 14, 2008

Dr. Sherry Hutt
Manager, National NAGPRA Program
National Park Service
RIN 1024-AC84
1849 C Street NW (2253)
Washington, DC 20240

Dear Dr. Hutt:

The Maxwell Museum of Anthropology supports NAGPRA and has been at the forefront in compliance. However, the Museum opposes adoption of the proposed draft regulations published in the Federal Register on October 16, 2007 pertaining to the disposition of culturally unidentifiable human remains. The Maxwell Museum recognizes that the issue of cultural unidentifiable human remains has been a thorny problem, and is committed to work in a spirit of cooperation and respect to resolve the issues surrounding the treatment and disposition of culturally unaffiliated human remains. The Museum concurs with and supports concerns raised by the American Association of Physical Anthropologists (AAPA) published October 26, 2007, and by the Society for American Archaeology (SAA) published November 10, 2007. The Museum is also sympathetic to many of the points raised Ryan Seidemann's letter of November 19, 2007. It is the Museum's judgment that aspects of the proposed regulations are confusing and undermine the spirit and intent of NAGPRA for the following reasons:

- 1) The American Southwest is an area where people of European and Native American ancestry have been in contact for circa 500 years. Museums house many remains of people of mixed heritage or for whom ancestry is not determinable. The elimination of cultural affiliation as the central guiding premise for consultation and its replacement with "cultural relationship," an as yet undefined term, will lead to confusion and conflicting interpretations. The protocols are unclear as to how a Museum and/or potentially culturally affiliated groups are to determine the "cultural relationships" of these remains.
- 2) It is not clear how Museums are to proceed with consultation under the proposed regulations. There is no clear statement as to whether Museums must await requests for repatriation or whether they are to initiate consultation with tribes or groups claiming "cultural relationships" in the absence of requests.

- 3) The Maxwell Museum has held individual consultation meetings with all the tribes in the Southwestern region from whose reservations and traditional lands it holds human remains. Specific individual tribal and group discussions concerning culturally unaffiliated remains resulted in virtually all tribal representatives expressing the opinion that culturally unidentified remains should be reburied. However, most did not wish to have those remains repatriated specifically to them. Most tribes were supportive of the museum continuing to curate culturally unidentified remains until such time as further discussions might lead to resolution of the problem. While the regulations may be intended to address this issue, it is the Museum's opinion that the draft regulations are so vague and burdensome to all parties that they will seriously disrupt ongoing and future discussions and impede ultimate resolution of the important concerns surrounding the ultimate disposition of unaffiliated remains.
- 4) NAGPRA consultations have resulted in the Maxwell Museum being informed that many Southwestern tribes do not wish to have any human remains returned to them (most vocally Zuni). Other tribes have not been able solve the problems associated with the return of demonstrably culturally affiliated human remains. It is the Museum's concern that the proposed regulations will require the Museum to request tribes accept human remains to which they may not have any ancestral connection, in order to prevent turning over such remains to other groups with more distant "cultural relationships". Such a burden would damage the relationships and understanding the Museum has developed over the past two decades with these tribes.
- 5) The American Southwest is home to the largest number of Native American tribes, and the Maxwell Museum has been involved in several of the nation's most significant repatriation efforts. Most prominent among them is the 1999 Pecos repatriation—the first high profile and one of the most successful collaborative processes yet accomplished—involving multiple museums, tribes, and the National Park Service. The relationships built between the Maxwell Museum and Jemez Pueblo, the principal tribe in that repatriation, remain strong and other important repatriation efforts are underway. In the Museum's judgment the proposed regulations will confuse and undermine the significant progress and good will that has been established under NAGPRA.

The Maxwell Museum respectfully requests that the proposed regulations not be adopted in their current form, and that additional thought, and broader perspectives, and continued discussion be brought to bear on this complex issue. The Museum sincerely hopes that the proposed regulations be reconsidered to preserve the respect and spirit of cooperation and collaboration that has characterized NAGPRA over the past 17 years.

Sincerely,
E. James Dixon, Ph.D.
Director, Maxwell Museum of Anthropology